

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Antonio Bing, #199832,	)	
	)	C/A No.: 8:07-0025-MBS
Petitioner,	)	
	)	
vs.	)	
	)	
South Carolina Department of Corrections;	)	<b>O R D E R</b>
and Stan Burt, Warden of Lieber	)	
Correctional Institution,	)	
	)	
Respondents.	)	
	)	

Petitioner Antonio Bing was convicted of armed robbery. He is an inmate in custody of the South Carolina Department of Corrections who currently is confined at the Lieber Correctional Institution in Ridgeville, South Carolina. Petitioner, appearing pro se, brings this action pursuant to 28 U.S.C. § 2254, alleging that the trial court lacked subject matter jurisdiction because “the indictment did not have the amount of money that was taken neither did it state the time of the crime, the victim’s name was not in the indictment.” Entry 1, p. 5.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915 and the Anti-Terrorism and Effective Death Penalty Act of 1996. On January 9, 2007, the Magistrate Judge filed a Report and Recommendation in which she recommended that the § 2254 petition be dismissed without prejudice as a successive petition. On January 23, 2007, Petitioner requested and was granted a period of forty-five days, until March 12, 2007, to file objections to the Report and Recommendation. However, Petitioner has filed no objections to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The case is dismissed without prejudice and without issuance and without requiring Respondents to file a return.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

March 23, 2007

**NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**